

PIKE COUNTY PROJECT DEVELOPMENT BOARD

REGULAR MEETING MINUTES

**Pike County Courthouse
Pikeville, Kentucky**

December 3, 2009, at 5:00 p.m.

CHAIR: Judge/Executive Wayne T. Rutherford

MEMBERS OF THE BOARD PRESENT:

**AOC Representative/City Manager Donovan Blackburn
Circuit Judge Eddy Coleman
Circuit Court Clerk David Deskins
Citizen at Large Hon. Charles E. Lowe, Jr.
State Bar Association Representative Neal Smith
Jim King, AOC Project Manager**

OTHERS PRESENT:

**Bobby Branham, Executive Assistant to Judge/Executive
Rusty Davis, Pikeville City Attorney
Rose Farley, Recorder
Michael George, Ross, Sinclair & Associates
Rhonda James, Finance Commissioner of PCFC
Jeanne Robinson, Executive Assistant to Judge/Executive
Steve Sherman, Sherman, Carter and Barnhart
David Sumner, Codell Construction**

MEMBERS OF THE BOARD ABSENT:

**Magistrate Jeff Anderson
District Judge Darrell Mullins**

Judge/Executive Wayne T. Rutherford, Chair of the Pike County Project Development Board, called to order a regular meeting of the Board on December 3, 2009, at 5:00 p.m., in the Pike County Fiscal Courtroom, Pike County Courthouse, 146 Main Street, Pikeville, Kentucky.

Judge Rutherford called upon Rusty Davis, Pikeville City Attorney, to present an update on the lawsuits. Attorney Davis said there was not much change in the cases with all briefs having been filed and the only wait now was to see whether the Court of Appeals would want oral argument, which he said does not usually happen. He said

motions for discretionary review could be filed within the next thirty days after notice. He reported that Assistant Pike County Attorney Roland Case has informed him the Will T. Scott property has been closed, thus giving access to all the properties with all property owners out. He noted that Robert Pinson had until October 15 to move and whatever accessories are left after that date belong to the Board. He did, however, agree to permit Mr. Pinson to continue to remove items from the hotel property since the Board was not ready to immediately demolish the building.

He said all properties could begin to be torn down at any time now except for the two buildings and parking lot under appeal. Lonnie Johnson and the Weddington Theater properties are not closed but Attorney Case is working on those now. The Pinson case is set for trial on November 30 but the plaintiff's attorney's expert report was not submitted or accessible until the "eve of trial" so it would have been difficult to review all the comparables and go to trial. He said the Special Judge stated that because of the nature of the case, he did not want any individual to go to a condemnation trial without any proof. He suggested that Attorney Davis could either give a continuance or file an assessment of costs against Attorney Larry Webster.

Approval of the minutes was called for. **Upon motion by David Deskins and second by Donovan Blackburn, the board meeting minutes for November 5, 2009, were unanimously APPROVED.**

Jim King, AOC Project Manager, presented bills to the Board which to date have not been executed: 1) Pike County Fiscal Court and Lonnie Johnson for \$57,000 executed on this date, approved in June; 2) Larry Keene for \$358,000 approved in June and executed on this date; and 3) Robert Pinson for \$1,500,000 approved but not executed. Judge Rutherford pointed out that these have already been approved and earlier board minutes reflect that. Mr. King said he would submit these three for submission to the Trustee. He presented two bills this month: 1) \$47,004.33 to Summit Engineering, Inc., which Mr. King signed in the meeting to be executed; and 2) \$94,500 for the Weddington Theater Property for which checks are to be issued and he signed these also in the meeting. He announced there are two other bills for Summit Engineering and they will be processed as soon as possible. **Upon motion by Neal Smith and second by David Deskins, the Board unanimously AUTHORIZED payment for the following invoices: 1) Pike County Fiscal Court and Lonnie Johnson for \$57,000 executed on this date, approved in June; 2) Larry Keene for \$358,000 approved in June and executed on this date; and 3) Robert Pinson for \$1,500,000 approved but not executed.**

Judge Rutherford presented the warning order attorney fees which had been submitted for payment through Attorney Case. Mr. King said he would give these to Codell Construction to enter into the system. At a later point in the meeting, Rhonda James, Finance Commissioner for the Fiscal Court, asked about the timing issue on payment of the warning order attorney fees. Mr. King responded it would take about a week and Mr. Sumner agreed, a week's turnaround. She offered to go before the Fiscal Court if payment cannot be made and have reimbursement later made to the Court but

Mr. King did not feel that would be necessary. **Upon motion by Neal Smith and second by David Deskins, the Board unanimously AUTHORIZED payment to be made to Stephen L. Hogg, Warning Order Attorney for the condemnation lawsuits, and for submission of the bills as follows:**

1. Action No. 08-CI-01239

Fiscal Court v. Alcie A. Combs, et al	\$ 500.00	Postage	\$16.47
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2. Action No. 088-CI-01241

Fiscal Court v. Robert D. Pinson, et al	\$ 800.00	Postage	\$45.28
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3. Action No. 08-CI-01242

Fiscal Court v. T.J. Realty, Inc., et al	\$ 600.00	Postage	\$32.94
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4. Action No. 088-CI-01243

Fiscal Court v. Hattie Thompson Main Street Trust, et al	\$1,100.00	Postage	\$62.26
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5. Action No. 08-CI-01244

Fiscal Court v. T. J. Realty, et al	\$1,100.00	Postage	\$60.39
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6. Action No. 08-CI-01245

Fiscal Court v. Larry Keene, et al	\$ 600.00	Postage	\$33.90
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A bill from the Recorder was presented. **Upon motion by Eddy Coleman and second by Neal Smith, the Board unanimously AUTHORIZED payment to Rose Farley, Recorder, for services as clerk from November 6, 2008, through December 3, 2009, in the sum of \$50 per meeting or total sum of \$650.**

Architect Steve Sherman of Sherman, Carter and Barnhart came forward to state that David Sumner of Codell Construction would see that the drawings are released to contractors for bidding around the middle of January 2010 or toward the end of the month. He asked for approval this evening to release the foundation package to the bidders. He said it probably will take about a week and a half to finalize everything. He estimated it probably would take about five weeks for the contractors to return the bids.

He asked the Board to pay for one more test, a "sort of a dirt test done based upon the soils encountered" and as a part of that process, there is a Dutch comb penetration test he feels is desirable and should be undertaken. He said that historically, it would provide a better price than if the firm itself did the test so it would be put out to everyone. He asked for authorization up to a maximum of \$15,000 so it could be offered in the foundation bid package. Mr. King said he highly recommended this procedure and Mr. Sherman said measurements would be taken based upon the test but it is nothing that may be done locally; it is a "unique process" requiring special equipment.

Judge Eddy Coleman asked if the bid packages could get bogged down and Mr. Sherman responded they are getting local prices in bidding the demolition and with multiple prices they will actually have the numbers and will inform the Board. He said they typically ask the bidders to hold their prices for 60 - 90 days and additional time frames may sometimes be given. He said prices will be given until the end of February and by that time, the litigation results will be firm. **Upon motion by Judge/Executive Wayne T. Rutherford and second by Neal Smith, the Board unanimously AUTHORIZED and APPROVED release of the foundation bid packages by Sherman, Carter and Barnhart, Architects. FURTHER, the Board unanimously AUTHORIZED performance of an additional Dutch comb penetration (soil) test with notice to all contractors and payment up to a maximum of \$15,000.**

David Sumner of Codell Construction announced twenty-two contractors had signed in for demolition including ones from Michigan, Tennessee, West Virginia, Ohio and Kentucky. The bid opening is scheduled for December 17 at 2:00 p.m. Attorney Davis asked when the bids would be in January 2010 and Mr. Sumner answered early January and a special meeting might have to be called. Judge Rutherford pointed out that Mr. Blackburn would be concerned with a competent contractor regarding damage to the city streets. Mr. Sumner said he will get with Mr. Blackburn on that. He also added that the contractors were given sixty days from start to finish and with a mid-January demolition schedule, they will be gone before Hillbilly Days occur in April. Judge Rutherford asked about a place for the contractors to operate from and he offered himself and Bobby Branham, Executive Assistant for the Fiscal Court, to assist in finding a proper place. Mr. Sumner said a place for storage of materials was very crucial.

With no further business to come before the Board, Judge Rutherford ADJOURNED the meeting.

Respectfully submitted,

Rose Farley, Recorder